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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/496,222	02/01/00	PHILYAW	J PHL-24.583

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EXAMINER

KANG, P

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 04/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/496,222

Applicant(s)

PHILYAW ET AL.

Examiner

Paul H Kang

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 2152

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 22-29 are provisionally rejected under the judicially created doctrine of double patenting over pending claims of copending Application No. 09/151,471. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the copending application.

Art Unit: 2152

3. Claims 22-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,098,106. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the related US patent.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 22 recites the limitation "the source" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 29 recites the limitation "the first format" in line 3 and "the unique ID code" in lines 3 and 4. There are insufficient antecedent basis for these two limitations in the claim.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Hudetz, US Pat. No. 5,978,773.

Art Unit: 2152

9. As to claim 22, Hudetz teaches a method for obtaining information regarding the source of a product from a remote information source location on a global communication network utilizing a product code associated with the product and unique thereto, comprising the steps of:

scanning the product code associated with the product with a scanner at a user location on the global communication network to extract the information contained in the unique product code therefrom (abstract and col. 3, line 17 – col. 4, line 30);

associating a unique scan ID code with the scanning operation (a predetermined address of the database is associated with the scanning operation to automatically link to the database; col. 7, lines 43-57);

assembling a packet of information comprised of the extracted product code and the unique code to provide a routing packet (col. 7, line 29 – col. 8, line 46); and

connecting to the remote information source location utilizing the routing packet and in response to the step of scanning, wherein the routing packet is representative of the location of the remote information source location on the global communication network through an association with a routing table (col. 7, line 29 – col. 8, line 46).

10. As to claim 24, Hudetz teaches a UPC product code (abstract).

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 23, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz in view of Citron et al., US Pat. No. 5,288,976.

13. As to claim 23, Hudetz teaches the invention substantially as claimed. However, Hudetz does not explicitly teach a unique scan ID code which is an ID code that is associated with the scanner which is utilized in the step of scanning. In the same field of endeavor, Citron teaches the use of bar codes, upon scanning the barcode, a unique scan ID code and other data is transmitted to the server (Citron, col. 4, line 58 – col. 6, line 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated using a unique scan ID as taught by Citron into the system of Hudetz for the purpose of increasing the efficiency of user authentication, data processing and data retrieval.

14. As to claim 28, Hudetz-Citron teaches providing a unique scanner having associated therewith the unique scan ID code; and scanning the product code with the provided scanner to extract information therefrom, the step of scanning operable to incorporate the step of associating the unique scan ID code with the scanning operation such that the step of scanning also results in the output of the routing packet (Hudetz, col. 7, line 29 – col. 8, line 46 and Citron, col. 4, line 58 – col. 6, line 10).




MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Art Unit: 2152

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-9731 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Paul H Kang
Examiner
Art Unit 2152

April 10, 2001